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10/587,017	05/31/2007	David C. Windorski	59529US005	1997
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PO BOX 33427			SHAH, SAMIR	
ST. PAUL, MN 55133-3427			ART UNIT	PAPER NUMBER
			1787	
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			11/12/2010	ELECTRONIC

# Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)			
	10/587,017	WINDORSKI ET AL.			
Office Action Summary	Examiner	Art Unit			
	SAMIR SHAH	1787			
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period  - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status					
Responsive to communication(s) filed on 12 C     This action is <b>FINAL</b> . 2b) ☐ This action is <b>FINAL</b> .      Since this application is in condition for alloware closed in accordance with the practice under the condition.	s action is non-final. nce except for formal matters, pro				
Disposition of Claims					
4)  Claim(s) 42-46,48-50 and 52-70 is/are pending 4a) Of the above claim(s) is/are withdra 5)  Claim(s) is/are allowed.  6)  Claim(s) 42-46, 48-50, 52-70 is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/or are subjected to by the Examine 10) The drawing(s) filed on is/are: a) accompanies to the specification to	wn from consideration.  or election requirement.  er.  cepted or b) □ objected to by the I				
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority under 35 U.S.C. § 119					
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>					
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Da 5)  Notice of Informal P 6) Other:	ate			

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### **DETAILED ACTION**

#### Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 12, 2010 has been entered.

### Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 42-46, 48-50, 52-70 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 42 recites "adjacent an edge of the first substrate" in line 6. However, there is no support found in specification to recite the limitation.

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# Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 5. Claims 42, 46, 52-55, and 65-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Inagaki et al. (U.S. 2002/0179237 A1).
- 6. Regarding claims 42 and 65, Inagaki discloses pressure sensitive adhesive sheet wherein it comprises;
- 7. a first substrate, i.e. paper, (paragraph 0013) having a writeable surface on one side there of and a mounting surface on a second opposite side thereof (1, figures 3 and 13); and
- 8. adjacent an edge of the first substrate (figure 12), a repositionable (paragraph 0009) pressure sensitive adhesive layer (2, figure 3) exposed on the second side of the first substrate, and a protective material (3, figure 3), e.g. the standoff element, having a height grater than a height of the adhesive,
- 9. wherein in the absence of a threshold level of pressure applied to the pressure sensitive adhesive layer, the pressure sensitive adhesive is spaced apart from the mounting substrate 4 (Fig 2, paragraph 37) and wherein the sheet is deformable such that a threshold level of pressure applied to the pressure sensitive adhesive layer brings

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the adhesive into sheet securing engagement with the mount substrate (Fig 3, paragraph 37).

- 10. Note that substrate layer, i.e. paper (paragraph 0013), would inherently have a writable front side and opposite side.
- 11. While there is no disclosure that the adhesive sheet of Inagaki is a index card as presently claimed, applicants attention is drawn to MPEP 2111.02 which states that "if the body of a claim fully and intrinsically sets forth all the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction". Further, MPEP 2111.02 states that statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the purpose or intended use results in a structural difference between the claimed invention and the prior art. Only if such structural difference exists, does the recitation serve to limit the claim. If the prior art structure is capable of performing the intended use, then it meets the claim.
- 12. It is the examiner's position that the preamble does not state any distinct definition of any of the claimed invention's limitations and further that the purpose or intended use, i.e. index card, recited in the present claims does not result in a structural difference between the presently claimed invention and the prior art adhesive sheet and further that the prior art structure which is an adhesive sheet identical to that set forth in the present claims is capable of performing the recited purpose or intended use.

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13. Regarding claim 46, Inagaki discloses pressure sensitive adhesive sheet wherein upon removal of the sheet from mounting substrate, the pressure layer returns to its original shape (paragraphs 0009 and 0037, figure 4).

- 14. Regarding claim 52, Inagaki discloses pressure sensitive adhesive sheet wherein the protective material, e.g. the standoff element, comprises a portion of the first substrate which has a thickness sufficient to space the adhesive exposed on the cover layer from a surface in abutting engagement with the second side of the first substrate, in the absence of a pressure applied to the outer face of the cover layer urging it toward the surface (figure 3).
- 15. Regarding claim 53, Inagaki discloses pressure sensitive adhesive sheet but fails to disclose that a plurality of said sheets aligned in a stacked orientation fail to adhere together in absent the application of pressure. However, Inagaki's PSA sheet would inherently have this feature since protective material is present on the adhesive layer.
- 16. Regarding claims 54 and 66, Inagaki discloses pressure sensitive adhesive sheet wherein it comprises mesh form protective material (paragraph 0036), i.e. linear raised element, on a side of substrate wherein mesh is made of multiple parallel strips and at least a portion of the pressure sensitive adhesive on the same side of the substrate and substrate has a height lower than the mesh form protective material (figures 1 and 3).
- 17. Regarding claim 55, Inagaki discloses pressure sensitive adhesive sheet wherein the raised element is continues strips (figure 3).
- 18. Regarding claim 67, Inagaki discloses pressure sensitive adhesive sheet wherein it is securing engagement with a mounting surface (figures 2 and 3).

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19. Regarding claims 68-69, Inagaki discloses the same structure of pressure sensitive adhesive sheet as presently claimed, therefore, it is clear that if the PSA sheets are arranged top to bottom, they would not stick to one another and one would inherently be able to shuffle without adhering to other sheets.

20. Regarding claim 70, Inagaki does not disclose a plurality of ruled lines on the surface of paper. However, the court found that matters relating to ornamentation, such as ruled lines, only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. See Ex parte Hilton, 148 USPQ 356 (Bd. App. 1965).

### Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 22. Claims 43-45 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al. (U.S. 2002/0179237 A1) in view of Chase (U.S. 3517106).
- 23. Inagaki discloses pressure sensitive adhesive sheet as described above.

  Regarding claims 43, 44, and 48, Inagaki fails to meet the limitation of present claims.

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24. Chase teaches methods and materials for mounting illustrations, clippings, pictures and the like in accurate position on mounting boards, picture-album pages, and like supports (Column 1, lines 13-16). With respect to claims 43 and 48, Chase teaches a thin paper web coated with pressure sensitive adhesive layer on both surfaces of the paper web wherein the pressure sensitive adhesive layer is covered with a paper release sheet on both sides of the pressure sensitive adhesive layers (Column 1, lines 16-17, Column 4, lines 71-75, Column 5, lines 1-2). Further, Figure 1 and Figure 2 of Chase shows a paper web W coated on both sides with the pressure sensitive adhesive A and a release sheet that is made of easily separable sections IR and ER. The removal of one section of the release sheet as shown in Figure 1 exposes the pressure sensitive adhesive layer A as indicated by CA. The paper release sheet as shown in Figures 1 and 2 of Chase reads on the claimed paper layer wherein a portion of the paper layer having an upper edge with a portion of the paper layer being removed to define a paperless zone which includes a gap across the upper edge as claimed in the claims 43 and 48. Further, the pressure sensitive adhesive coated paper web W (Figures 1 and 2) of Chase reads on the cover layer having pressure sensitive adhesive disposed on its inner face where the cover layer adhered thereby to the front side of the paper layer to cover the paperless zone in an alignment where a top edge of the cover layer extends across the gap of the paperless zone and the adhesive on the inner face of the cover layer is exposed across the paperless zone on the back side of the paper layer. Note that the paper based release sheet intrinsically has a writable front side and an opposite side.

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25.

It would have been obvious to one of ordinary skill in the art at the time of the

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invention to use the structure of Chase in the sheet of Inagaki so that it functions same as chase invention.

- 26. Regarding claim 49, Inagaki fails to meet the limitation of present claim.
- 27. Chase at Column 1 lines 35-46 and Figure 10 teaches that if it is desired to secure a picture to a support such as an album page, a mount with adhesive on both surfaces is used, and after the picture is adhered to the mount a section of the release sheet on the other side of the mount is removed and the composite picture and mount is arranged on the support so only the remainder of the release sheet touches the mount and the composite picture and mount is accurately located and held in position while the exposed adhesive is pressed into adhering contact with the support thereby fixing the position of the picture on the support. Further note that the pressure sensitive adhesive coated web W is thin and made of paper (Column 4, line 71) thus the web W is inherently flexible. The examiner is equating the album page of Chase as the claimed surface as claimed in the claim 49.
- 28. It would have been obvious to one of ordinary skill in the art at the time of the invention to use structure of chase invention in the sheet of Inagaki to have some flexibility.
- 29. Regarding claim 45, Inagaki discloses pressure sensitive adhesive sheet wherein the outer most surface, e.g. second substrate, has indicia on it (paragraph 0007).
- 30. Regarding claim 50, Inagaki discloses pressure sensitive adhesive wherein indicia would intrinsically have a color.

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31. Claims 56-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al. (U.S. 2002/0179237 A1) in view of Sommers (U.S. 5924227).

- 32. Inagaki discloses pressure sensitive adhesive sheet as described above. Regarding claims 56-58, Inagaki fails to meet the limitation of present claims.
- 33. Sommers discloses an index card wherein a score line on the substrate which is placed from and parallel to the upper edge of the substrate and a cut formed through the substrate, the cut extending from a first end on the score line toward the upper edge to a first turn, extending from the first turn along and spaced from the upper to a second turn, and then extending from the second turn away from the upper edge to a second end of the cut on the score line (figures 2 and 3).
- 34. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the folding mechanism of Sommers with the sheet structure of Inagaki so that it is easy to view and handle.
- 35. Regarding claims 59-60, Inagaki discloses pressure sensitive adhesive sheet wherein it comprises pressure sensitive adhesive (paragraph 0037). Inagaki alone fails to meet all the limitation as present claims.
- 36. Sommers discloses an index card wherein the spacing portion of the substrate being folded over so that it lean towards the second side of the substrate, thereby forming a raised layer on the second side of the substrate which defines the standoff element and which has a higher thickness than the substrate (figures 2 and 3).

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37. It would have been obvious to one of ordinary skill in the art at the time of the invention to put pressure sensitive adhesive of Inagaki on the folded portion to have better adhesion than just folding.

- 38. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al. (U.S. 2002/0179237 A1) in view of Kanki et al (U.S. 5824415).
- 39. Inagaki discloses pressure sensitive adhesive sheet as described above. Regarding claim 61, Inagaki fails to meet the limitation of present claim.
- 40. Kanki discloses decorative material sheet wherein it comprises varnish, i.e. masking material, to improve the adhesion between the layers (column 6, lines 27-34).
- 41. It would have been obvious to one of ordinary skill in the art at the time of the invention to use varnish material of Kanki on the adhesive layer of Inagaki to the adhesion between the adhesive layer and the standoff element.
- 42. Claims 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagaki et al. (U.S. 2002/0179237 A1) in view of Calhoun et al. (U.S. 5141790).
- 43. Inagaki discloses pressure sensitive adhesive sheet as described above. Regarding claims 62-64, Inagaki fails to meet the limitation of present claims.
- 44. Calhoun discloses repositional pressure sensitive adhesive tape wherein a recess formed on the second side of the first substrate, the first side of the first substrate having no surface discontinuities relative to the recess, and the adhesive on the second side of the first substrate is disposed only within the recess, the recess

having a depth, relative to an unrecessed portion of the second side of the first substrate, which is sufficient to space the adhesive from the mounting substrate and the first substrate has an upper edge and wherein the recess has an upper border which extends along and is spaced from the upper edge of the first substrate and the first substrate has first and second side edges, and wherein the recess extends the first substrate from first side edge to the second side edge thereof (col.5, lines 19-40 and figure 1).

- 45. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the structure of tape of Calhoun in the sheet of Inagaki to protective the adhesive and so that the sheets do not get stuck with each other in absent of pressure when they are stacked on one another.
- 46. Claims 42-44, 48-49, and 68-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Chase (U.S. 3517106) in view of Inagaki et al. (U.S. 2002/0179237 A1).
- 47. Regarding claims 42-44 and 48-49, Chase teaches methods and materials for mounting illustrations, clippings, pictures and the like in accurate position on mounting boards, picture-album pages, and like supports (Column 1, lines 13-16). With respect to claims 43 and 48, Chase teaches a thin paper web coated with pressure sensitive adhesive layer on both surfaces of the paper web wherein the pressure sensitive adhesive layer is covered with a paper release sheet on both sides of the pressure sensitive adhesive layers (Column 1, lines 16-17, Column 4, lines 71-75, Column 5,

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lines 1-2). Further, Figure 1 and Figure 2 of Chase shows a paper web W coated on both sides with the pressure sensitive adhesive A and a release sheet that is made of easily separable sections IR and ER. The removal of one section of the release sheet as shown in Figure 1 exposes the pressure sensitive adhesive layer A as indicated by CA. The paper release sheet as shown in Figures 1 and 2 of Chase reads on the claimed paper layer wherein a portion of the paper layer having an upper edge with a portion of the paper layer being removed to define a paperless zone which includes a gap across the upper edge as claimed in the claims 43 and 48. Further, the pressure sensitive adhesive coated paper web W (Figures 1 and 2) of Chase reads on the cover layer having pressure sensitive adhesive disposed on its inner face where the cover layer adhered thereby to the front side of the paper layer to cover the paperless zone in an alignment where a top edge of the cover layer extends across the gap of the paperless zone and the adhesive on the inner face of the cover layer is exposed across the paperless zone on the back side of the paper layer. Note that the paper based release sheet intrinsically has a writable front side and an opposite side. Regarding claim 49, Chase at column 1 lines 35-46 and Figure 10 teaches that if it is desired to secure a picture to a support such as an album page, a mount with adhesive on both surfaces is used, and after the picture is adhered to the mount a section of the release sheet on the other side of the mount is removed and the composite picture and mount is arranged on the support so only the remainder of the release sheet touches the mount and the composite picture and mount is accurately located and held in position while the exposed adhesive is pressed into adhering contact with the support thereby fixing the

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position of the picture on the support. Further note that the pressure sensitive adhesive coated web W is thin and made of paper (Column 4, line 71) thus the web W is inherently flexible. The examiner is equating the album page of Chase as the claimed surface as claimed in the claim 49.

- 48. Chase fails to teach standoff element.
- 49. Inagaki discloses pressure sensitive adhesive sheet comprising:
- 50. a first substrate, e.g. paper, (paragraph 0013) having a writeable surface on one side there of and a mounting surface on a second opposite side thereof (1, figures 3 and 13); and adjacent an edge of the first substrate (figure 12), a repositionable (paragraph 0009) pressure sensitive adhesive layer (2, figure 3) exposed on the second side of the first substrate, and a protective material (3, figure 3), e.g. the standoff element, having a height grater than a height of the adhesive, wherein in the absence of a threshold level of pressure applied to the pressure sensitive adhesive layer, the pressure sensitive adhesive is spaced apart from the mounting substrate 4 (Fig 2, paragraph 37) and wherein the sheet is deformable such that a threshold level of pressure applied to the pressure sensitive adhesive layer brings the adhesive into sheet securing engagement with the mount substrate (Fig 3, paragraph 37).
- 51. It would have been obvious to one of ordinary skill in the art at the time of the invention to use standoff element of Inagaki in the cards of Chase so that cards do not get stuck to each other when they are stacked on one another.
- 52. While there is no disclosure that the card of Chase in view of Inagaki is an index card as presently claimed, applicants attention is drawn to MPEP 2111.02 which states

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that "if the body of a claim fully and intrinsically sets forth all the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction". Further, MPEP 2111.02 states that statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the purpose or intended use results in a structural difference between the claimed invention and the prior art. Only if such structural difference exists, does the recitation serve to limit the claim. If the prior art structure is capable of performing the intended use, then it meets the claim.

- 53. It is the examiner's position that the preamble does not state any distinct definition of any of the claimed invention's limitations and further that the purpose or intended use, i.e. index card, recited in the present claims does not result in a structural difference between the presently claimed invention and the prior art card and further that the prior art structure which is a card identical to that set forth in the present claims is capable of performing the recited purpose or intended use.
- 54. Regarding claims 68-69, given that Chase in view of Inagaki disclose the same structure as presently claimed, the sheets, when arranged top to bottom, would intrinsically not stick to one another and they would intrinsically be shuffled without adhering to other cards.
- 55. Regarding claim 70, Chase in view of Inagaki does not disclose a plurality of ruled lines on the surface of paper. However, the court found that matters relating to

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ornamentation only, such as ruled lines, which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. See Ex parte Hilton, 148 USPQ 356 (Bd. App. 1965). Therefore, it would have been obvious to one of ordinary skill in the art to modify the sheet of Inakagi with any ornamentation, including lines, depending on the desired design and end use.

## Response to Arguments

- 56. Applicant's arguments filed October 12, 2010 have been fully considered but they are not persuasive.
- 57. Applicants argue that Inagaki discloses substrate made of plastic laminates, not paper. However, it is noted that paragraph 0013 of Inagaki does disclose paper being a substrate.
- 58. Applicants argue that Inakagi does not disclose that its substrate is writeable. However it is noted that Inakagi discloses a substrate being paper and paper has inherent property such as writable surface.
- 59. Applicants argue that Inagaki does not teach that the features asserted to be analogous to applicant's securing mechanism are located adjacent an edge of the substrate: instead, they are located in the interior of the sheet. However, it is noted in figure 12 of the Inagaki that the securing mechanism such as adhesive layer is adjacent an edge of the substrate. Therefore, the feature is asserted to be analogous to applicant's securing mechanism.

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60. Applicants argue that Inagaki does not disclose a stack of the sheets disclosed therein. However, Inagaki discloses the same structure of pressure sensitive adhesive sheet as presently claimed, therefore, it is clear that if the PSA sheets are arranged top to bottom, they would not stick to one another and one would inherently be able to shuffle without adhering to other sheets.

- 61. Applicants argue that one skilled in the art would not make the proposed combination of the permanent mounting of Chase with the reopenable action of Inagaki because the adhesive layer of Chase exposed by removal of a release liner while an article is positioned on a surface. However, it is noted that the use of release liner is very well known in the art. A release is there to protect the adhesive only. Therefore, one would take release liner out immediately before using the adhesive article or while using the article. Therefore, one would make the combination of Inagaki with Chase.
- 62. Applicants argue that reference of Calhoun does not cure these deficiencies such as index card and formation of a securing mechanism. However, note that while Calhoun does not disclose <u>all</u> the features of the present claimed invention, Calhoun is used as teaching reference, and therefore, it is not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, namely recess formed on the second side of the first substrate, and in combination with the primary reference, discloses the presently claimed invention.

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### Conclusion

63. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to SAMIR SHAH whose telephone number is (571)270-

1143. The examiner can normally be reached on 8am to 5pm.

64. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Callie Shosho can be reached on (571)272-1123. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

65. Information regarding the status of an application may be obtained from the

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/SAMIR SHAH/

Examiner, Art Unit 1787

/Callie E. Shosho/

Supervisory Patent Examiner, Art Unit 1787

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